

**FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS**

**RULE 63 (37 C.F.R. 1.63)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**PM & S
FORM**

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the INVENTION ENTITLED COAL-BASED ORGANIC GROWTH COMPOUND

the specification of which (CHECK applicable BOX(ES))
 A. is attached hereto.
 BOX(ES) → B. was filed on June 27, 2000 as U.S. Application No. 09 / 605,718
 → C. was filed as PCT International Application No. PCT/ on

and (if applicable to U.S. or PCT application) was amended on

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)	Date first Laid-open or Published	Date Patented or Granted	Priority NOT Claimed
<u>Number</u>	<u>Country</u>	<u>Day/MONTH/Year Filed</u>	

If more prior foreign applications, X box at bottom and continue on attached page.

Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT International applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)	Status	Priority NOT Claimed
<u>Application No. (series code/serial no.)</u>	<u>Day/MONTH/Year Filed</u>	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And, I hereby appoint Pillsbury Madison & Sutro LLP, Intellectual Property Group, 1100 New York Avenue, N.W., Ninth Floor, East Tower, Washington, D.C. 20005-3918, telephone number (202) 861-3000 (to whom all communications are to be directed), and the below-named persons (of the same address) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete names/numbers below of persons no longer with their firm and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above Firm and/or a below attorney in writing to the contrary.

Paul N. Kokulis	16773	Paul E. White, Jr.	32011	Stephen C. Glazier	31361	Adam R. Hess	41835
Raymond F. Lippitt	17519	Glenn J. Perry	28458	Ruth N. Morduch	31044	William P. Atkins	38821
G. Lloyd Knight	17698	Kendrew H. Colton	30368	Richard H. Zaitlen	27248	Paul L. Sharer	36004
Kevin E. Joyce	20508	G. Paul Edgell	24238	Roger R. Wise	31204		
George M. Sirilla	18221	Lynn E. Eccleston	35861	Jay M. Finkelstein	21082		
Donald J. Bird	25323	Timothy J. Klima	34852	Michael R. Dzwonczyk	36787		
Peter W. Gowday	25872	David A. Jakopin	32995	W. Patrick Bengtsson	32456		
Dale S. Lazar	28872	Mark G. Paulson	30793	Jack S. Barufka	37087		

(1) INVENTOR'S SIGNATURE:

Robert J. Johnston

Date:

6/9/2000

First:	Middle Initial:	Family Name:
Residence	Emlenton	Pennsylvania
City:	State/Foreign Country:	Country of Citizenship:
Post Office Address (include Zip Code)	221 Byron Center Road, Emlenton, Pennsylvania 16373	

(2) INVENTOR'S SIGNATURE:

Date:

First:	Middle Initial:	Family Name:
Residence		
City:	State/Foreign Country:	Country of Citizenship:
Post Office Address (include Zip Code)		

FOR ADDITIONAL INVENTORS, "X" box and proceed on the attached page to list each additional inventor.

See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. PM

(M#)

R / 56(a) & (b) = 37 C.F.R. 1.56(a) & (b)
PATENT AND TRADEMARK CASES - RULES OF PRACTICE
DUTY OF DISCLOSURE

- (a) ...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the [Patent and Trademark] Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability...
(b) information is material to patentability when it is not cumulative and (1) It also establishes by itself, or in combination with other information, a prima facie case of unpatentability of a claim or (2) refutes, or is inconsistent with, a position the applicant takes in: (i) Opposing an argument of unpatentability relied on by the Office, or (ii) Asserting an argument of patentability

PATENT LAWS 35 U.S.C.

§102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless--

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months* before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

§103. Condition for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. . . .
- (c) Subject matter developed by another person, which qualified as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

* Six months for Design Applications (35 U.S.C. 172).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

JOHNSTON

Serial No.: As shown on attached list

Filed: As shown on attached list

Title: COAL-BASED ORGANIC
GROWTH COMPOUND

**POWER OF ATTORNEY FROM ASSIGNEE
AND REVOCATION OF PRIOR POWERS**

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

The undersigned person, whose title is indicated below, is empowered to sign this document on behalf of the Assignee of record in the patent application serial numbers listed below. The title from the original owner to the Assignee is recorded as follows:

October 19, 2000

Reel 0111172

Frame 0299.

The undersigned hereby revokes all previous Powers and appoints Power of Attorney to the registered practitioners of Morgan Lewis & Bockius LLP included in Customer Number No. 009629 to prosecute these applications and to transact all business in the Patent and Trademark Office connected therewith.

Please direct all telephone inquiries to:

**Paul N. Kokulis
202-739-5455**

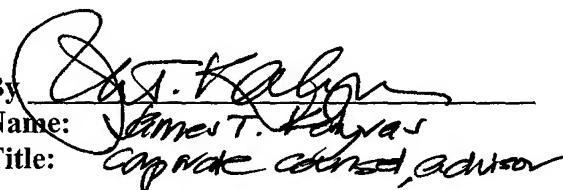
Please send all future correspondence concerning these applications to
MORGAN, LEWIS & BOCKIUS LLP at the following location:

Customer No. 009629

Paul N. Kokulis
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

<u>Attorney Docket No.</u>	<u>Application No.</u>	<u>Date Filed</u>
056134-5001	09/605,718	June 27, 2000
056134-5001	Division of 09/605,718	February 19, 2002

WESTERN PRODUCTION CORPORATION

By 
Name: James T. Kekava
Title: Corporate counsel, advisor

Date: February 13, 2002



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DECEMBER 18, 2000

PTAS

PILLSBURY MADISON & SUTRO LLP
PAUL N. KOKULIS
INTELLECTUAL PROPERTY GROUP
1100 NEW YORK AVENUE, NW - 9TH FLOOR
NEW YORK, NY 20005-3918



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UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/19/2000

REEL/FRAME: 011172/0299
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
JOHNSTON, ROBERT J.

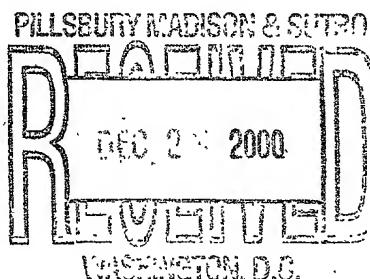
DOC DATE: 06/28/2000

ASSIGNEE:
WESTERN PRODUCTION CORPORATION
221 BYRON CENTER ROAD
EMLENTON, PENNSYLVANIA 16373

SERIAL NUMBER: 09605718
PATENT NUMBER:

FILING DATE: 06/27/2000
ISSUE DATE:

SHAREILL COLES, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



Please return signed/recorded to:
Pillsbury Madison & Sutro LLP
Intellectual Property Group
1100 New York Avenue, NW
Ninth Floor
Washington, DC 20005-3918

Atty. Dkt. FWS 266807

M#

41204

Client Ref.

ASSIGNMENT
of U.S. Origin Patent Application

COPY

WHEREAS, the undersigned, to wit:

1) Robert J. Johnston	2)
3)	4)
5)	6)
7)	8)

(hereinafter collectively ASSIGNOR), has/have made an invention known as Dkt. 41204/266807

and entitled: COAL-BASED ORGANIC GROWTH COMPOUND

for which an application for Letters Patent of the United States

was filed on June 27, 2000, Appl. No. 09 /605,718 ;

AND WHEREAS WESTERN PRODUCTION CORPORATION

(hereinafter ASSIGNEE), duly organized and existing under the laws of the State of Pennsylvania

221 Byron Center Road, Emlenton, Pennsylvania

and having its principal office and place of business at 16373

desires to acquire an interest therein;

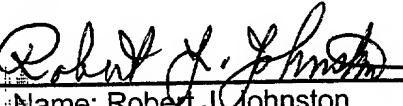
15 NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration,
the receipt and sufficiency of which are hereby acknowledged, the said ASSIGNOR, does hereby sell, assign
and transfer unto ASSIGNEE, its successors, assigns and legal representatives, the full and exclusive right, title
and interest to the said invention in the United States and all foreign countries, as described in the aforesaid
application, and to the said application and to all continuations, divisions, reissues and substitutes of said
application, together with the right of priority under the International Convention for the Protection of Industrial
Property, Inter-American Convention Relating to Patents, Designs and Industrial Models, and any other
international agreements to which the United States of America adheres, and ASSIGNOR hereby authorizes and
requests the Commissioner of Patents to issue said Letters Patent to ASSIGNEE, for its interest as ASSIGNEE,
its successors, assigns and legal representatives.

AND ASSIGNOR hereby agrees to execute any papers requested by ASSIGNEE, its successors, assigns and legal representatives, deemed essential to ASSIGNEE's full protection and title in and to the invention hereby transferred.

ASSIGNOR furthermore agrees upon request of said ASSIGNEE, and without further remuneration, to execute any and all papers desired by said ASSIGNEE for the filing and granting of foreign applications and the perfecting of title thereto in said ASSIGNEE.

NOTE: The undersigned hereby authorizes Pillsbury Madison & Sutro LLP of the above address to insert hereon any further identification necessary or desirable for recordation of this document.

Executed on the date(s) below indicated.

<u>Signature</u>	<u>Date Signed</u>	<u>Witness</u>
1) 	<u>6/28/2000</u>	
Name: Robert J. Johnston		
2)		
Name:		
3)		
Name:		
4)		
Name:		
5)		
Name:		
6)		
Name:		
7)		
Name:		
8)		
Name:		